

RESOLUTION NO. 15-02-08

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, DENYING A REQUEST BY PALM BEACH FOOT & ANKLE, INC., FOR A WAIVER FROM THE SIGN CODE REQUIREMENTS OF TOWN CODE SECTION 78-70(p)(1)(k), FOR AN EXISTING NON-CONFORMING MONUMENT SIGN LOCATED ON A .02870 ACRE PARCEL OF LAND, OWNED BY HENRY STARK AT 701 PARK AVENUE (CORNER OF PARK AVENUE AND 7TH STREET) IN THE TOWN OF LAKE PARK, FLORIDA, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Palm Beach Foot & Ankle, Inc., (“Applicant”), has submitted an application (“Application”) to the Town of Lake Park (“Town”) requesting a waiver from the signage requirements set forth in Town Code Section 78-70 (p)(1)(k), to allow an existing non-conforming monument sign on the real property located at 701 Park Avenue (the corner of Park Avenue and 7th Street), in the Town of Lake Park, (“subject property”); and

WHEREAS, the legal description of the subject property is contained in **Exhibit “A”**, and its general location is as shown in **Exhibit “B”**, both of which are attached hereto and incorporated herein; and

WHEREAS, Henry Stark is the record owner of the subject property and the authorized agent for the Applicant, Palm Beach Foot & Ankle, Inc.; and

WHEREAS, Town Code Section 78-70 (p)(1)(k), expressly prohibits freestanding monument and other signs in the Park Avenue Downtown District (“PADD”) including the freestanding monument sign which has been in existence on the subject property since 1987; and

WHEREAS, Town Code Section 78-70(p)(8) required the removal of all non-conforming signs in the PADD by August 6, 2002; and

WHEREAS, the Town Commission withheld the enforcement of Town Code Section 78-70(p)(1)(k) for several years after August 6, 2002, and conducted several public workshops and meetings on the subject of the removal and replacement of non-conforming signs in the PADD, to further inform owners and occupants of real property in the PADD of the signage requirements of the Town Code; and

WHEREAS, the Applicant was notified in writing by the Town on at least two prior occasions that the monument sign on the subject property was not in compliance

with the PADD regulations, and the Applicant was given until October 1, 2007 to bring the subject property into compliance or be subject to code enforcement action by the Town; and

WHEREAS, Town Code Section 78-70(l) of the Town Code authorizes the Town Commission to grant waivers of for signage, landscaping, height, property development regulations, district regulations, and other development standards, provided that an application for a waiver complies with a preponderance of the waiver criteria set forth in Town Code Section 78-70(l)(7); and

WHEREAS, Town Staff and the Lake Park Planning and Zoning Board have reviewed the Application, and have both recommended denial of the Application to the Town Commission; and

WHEREAS, at a duly noticed quasi-judicial public hearing, the Town Commission considered the evidence presented to it by the Town Staff, the Planning and Zoning Board, the Applicant, and other interested parties and members of the public, regarding the Application's consistency with the Town's Comprehensive Plan and whether the Application meets the Town's Land Development Regulations, and specifically the waiver criteria of Town Code Section 78-70(l)(7); and

WHEREAS, the Town Commission has determined that based upon the evidence presented, the Applicant has failed to satisfy a preponderance of the waiver criteria of Code Section 78-70(l)(7), to wit: the Town Commission has determined that the Application is NOT consistent with the intent of Section 78-70(p); that the Application does NOT further the Town's goal of establishing a neighboring and community-serving urban center; that the Application does NOT further the Town's goal of creating a pedestrian-friendly environment; that the Application does NOT further the architectural and site design elements of Section 78-70; that the Application does NOT demonstrate that special conditions and circumstances exist which are peculiar to the land, structure, or building on the subject property that are not applicable to other lands, structures, or buildings in the Park Avenue Downtown District; that the Application does NOT demonstrate that granting the waiver requested will not confer a special privilege upon the Applicant that is denied by Section 78-70 to other lands, buildings, or structures in the Park Avenue Downtown District; that the Application does NOT demonstrate that literal application of the provisions of Section 78-70 would deprive the Applicant of rights commonly enjoyed by other properties within the Park Avenue Downtown District; that the Application does NOT demonstrate that the request for the waiver will be in harmony with the general intent and purposes of Section 78-70, and that the Application does NOT demonstrate that the waiver will not be injurious to the area involved, or otherwise detrimental to the public health, safety, and welfare. The Town Commission is unable to determine due to a lack of evidence, as to whether the Application for a waiver is based solely upon economic reasons; and

WHEREAS, based upon the Town Commission's determination that the

Applicant has failed to satisfy a preponderance of the waiver criteria as contained in Town Code Section 78-70(1)(7), the requested sign waiver is denied.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:

Section 1: The whereas clauses are incorporated herein as true and correct findings of fact and conclusions of law of the Town Commission.

Section 2. The Town Commission hereby denies the Application for a waiver of the signage requirements of Town Code Section 78-70(p)(1)(k), as requested by the Applicant to allow the existing free-standing non-conforming monument sign to remain on the subject property.

Section 3. The Applicant shall have until March 31, 2008 within which to remove the non-conforming monument sign on the subject property, and obtain all necessary permits to erect suitable replacement signage, which complies with the requirements of the Town Code on the subject property. In the event the Applicant fails to remove the non-conforming monument sign by the date specified herein, the Town shall commence (or continue) code enforcement action against the property owner to achieve compliance.

Section 4. This Resolution shall become effective upon adoption.

Exhibit "A"

LEGAL DESCRIPTION

Exhibit "A"

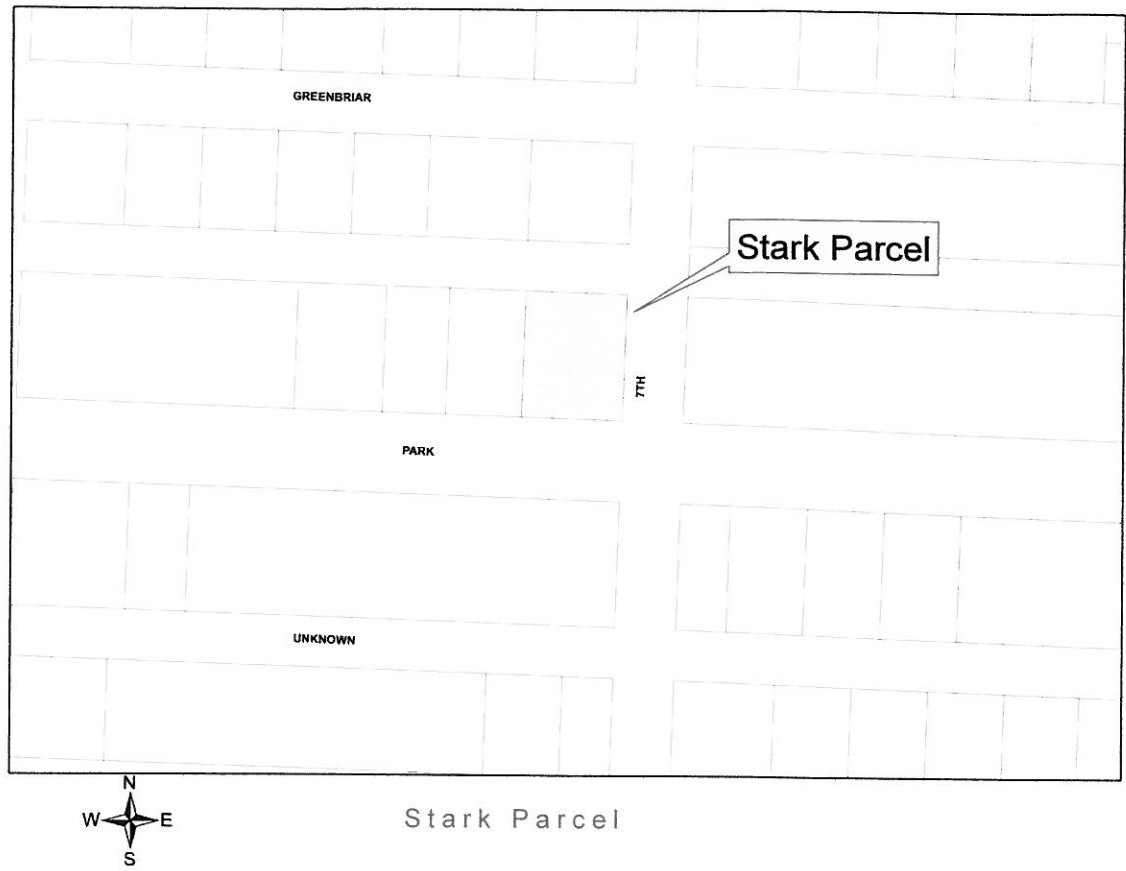
LEGAL DESCRIPTION

Henry K. Stark
701 Park Avenue, Lake Park, Fl 33403

A parcel of land located in Section 42, Township 43, Range 36, Palm Beach County, Florida being more particularly described as follows:

Lots 45, 46, 47, and 48 of Block 11, LAKE PARK (formerly Kelsey City), Florida, according to the Plat thereof on file in the Office of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 05439, Page 1471.

Exhibit "B"

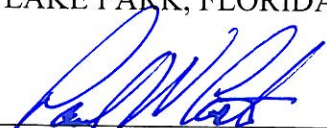


The foregoing Resolution was offered by Mayor Castro, who moved its adoption. The motion was seconded by Commissioner Balius, and upon being put to a roll call vote, the vote was as follows:

	AYE	NAY
MAYOR PAUL W. CASTRO	<u>X</u>	_____
VICE-MAYOR ED DALY	<u>X</u>	_____
COMMISSIONER CHUCK BALIUS	<u>X</u>	_____
COMMISSIONER JEFF CAREY	<u>X</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>X</u>	_____

The Town Commission thereupon declared the foregoing Resolution NO. 15-02-08 duly passed and adopted this 20 day of February, 2008.

TOWN OF LAKE PARK, FLORIDA

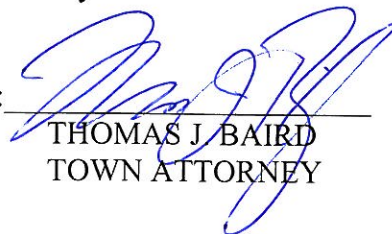
BY: 
PAUL W. CASTRO
MAYOR

ATTEST:


VIVIAN MENDEZ
TOWN CLERK

TOWN OF LAKE PARK
(TOWN SEAL)
SEAL
FLORIDA

Approved as to form and legal sufficiency:

BY: 
THOMAS J. BAIRD
TOWN ATTORNEY